THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :27289 of 2007

DATED:20-12-2007

BETWEEN:

Moka Ramisetty & 4 others.

..... PETITIONERS

AND

The District Collector,
Kakinada,
East Godavari District & 2 others.

.....RESPONDENTS

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ORDER:

Heard learned counsel appearing for the petitioners as well as the learned Government Pleader for Revenue appearing for the respondents.

2. Petitioners seek a writ of mandamus declaring the action of the respondents in directing the petitioners to vacate the scheduled dwelling houses bearing Nos.1-89, 1-16, 1-141/2, 1-13 and 1-145 situated in Scheduled Caste Colony, Chinna Gova Lanka village, Tallarevu mandal, East Godavari District, as illegal, and arbitrary.

3. It is the case of the petitioners that they have encroached upon the Government land thirty years ago and erected houses, and the said houses have been assessed to the property taxes and they are in continuous possession and enjoyment of the same.

4. Learned Government Pleader submits that admittedly the said land belongs to the Government and the question of deriving any title over the Government land does not arise and the said houses are situated at the canal bund. Therefore in respect of canal bund even if the petitioners are in long possession the question of acquiring title does not arise. He further submits that the said land is sought to be taken away for the purpose of allotting house sites under the 'Indiramma Housing Scheme' and the cases of the petitioners will also be

considered along with the other landless poor.

5. Even though the petitioners are encroachers they cannot be evicted without following due process of law under the provisions of the A.P.Land Encroachment Act, 1905.

6. Having regard to the facts and circumstances of the case, respondents are directed not to dispossess the petitioners without following due process of law and even if they are encroachers the cases of the petitioners may also be considered alongwith the other landless poor, while allotting the house sites.

7. Accordingly, Writ Petition is disposed of. No order as to costs.

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V.ESWARAIAH,J

20th December, 2007.
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